

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:19-CR-208-TAV-HBG-7
)	
THOMAS O. MACKEY,)	
)	
Defendant.)	

ORDER

This criminal matter is before the Court on the Report and Recommendation (“R&R”) entered by United States Magistrate Judge H. Bruce Guyton on November 19, 2020 [Doc. 135]. Judge Guyton recommends that the Court grant in part defendant’s motion to suppress [Doc. 90]. There have been no timely objections filed to the R&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(2).

After carefully reviewing the matter, the Court agrees with Judge Guyton’s recommendation and reasoning, which the Court adopts and incorporates into its ruling. Accordingly, the Court **ACCEPTS** the R&R, with the exception of Section III.B.2 (containing an alternative disposition) [Doc. 135] pursuant to 28 U.S.C. § 636(b)(1). Defendant’s Motion to Suppress Evidence [Doc. 90] is **GRANTED** on the ground that law enforcement did not have a reasonable belief that Thomas K. Mackey was inside of the residence at the time of the initial entry, and therefore, all evidence, including the critical evidence of the smell of marijuana, used to obtain the later search warrant, is

suppressed. Because all evidence obtained after the initial entry is suppressed, the Court need not address defendant's remaining arguments for suppression of evidence obtained during the execution of the later search warrant.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE